

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

NO. 5:18-CR-352-FL-1

UNITED STATES OF AMERICA

v.


NICHOLAS JAMES RIZZUTO

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ORDER

This matter comes before the court on defendant's motion for immediate release from custody (DE 69), and the parties' responses (DE 70, 71) to the court's April 30, 2020, order directing the government to show what cause, if any, exists for defendant to be maintained in custody. In its May 1, 2020, response, the government asserted that a criminal complaint had been filed and arrest warrant against defendant had issued that same day. See Fed. R. Crim. P. 4, 4.1; United States v. Rizzuto, 5:20-MJ-01449-JG (E.D.N.C.). In his motion, defendant argues that continued detention in the instant matter violates defendant's Fifth Amendment rights, but defendant was arrested on the new charges and completed an initial appearance on such new charges yesterday. See id.; see also Fed. R. Crim. P. 5. Accordingly, whether defendant may be maintained in custody in connection with the instant action, dismissed without prejudice on April 30, 2020, is moot, and defendant's motion for release therefore is DENIED AS MOOT. The clerk is DIRECTED to transmit a copy of this order to the United States Marshals Service.

SO ORDERED, this the 5th day of May, 2020.


LOUISE W. FLANAGAN
United States District Judge